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Implementation of the 2011 Natural Gas Act

Shell welcomes the opportunity to respond to the E-Control consultation on Implementation of the Gas Market Model Ordinance 2012 and considers that the document is crucial for providing a thorough and clear framework for all market players. For this reason we believe that the Ordinance should include sufficient detail and avoid the risks of policy slippage by allowing wide interpretations of the rules in the development of operational documents which may undermine the intent of the policy.

Overall, Shell is supportive of the draft, but would wish to raise a few issues for further consideration or clarification.

Capacity Allocation

While we are unsure whether the Ordinance is the correct place for this particular concern, Shell would like to ensure that interruptible capacity is not offered at the expense of firm capacity. We consider that the maximum amount of firm capacity is offered before any interruptible capacity, otherwise there is a risk that 'near firm' interruptible capacity is used for system management purposes.

Online Platform for Capacity Offers

Shell does not consider it appropriate to place a cap on the value of sublet or resold entry and exit capacity.

Capacity should be resold where there is no longer a need to hold such capacity and the sale reduces a company's liabilities, or where another party places a higher value on such capacity so that it is optimized financially. For the most part, capacity is bought in order to flow expected levels of gas through a network or as a hedge for physical delivery risk rather than as a speculative play.

The problems with contractual congestion have not been created through speculative position taking, but rather through legacy arrangements. Secondary market trading between users is a better solution than relying on TSOs to implement UIOLI or restrictive re-nomination rights, and capping the value is certain way to discourage the sale of capacity.

Any concerns about abusive or anti-competitive behaviour should be addressed via competition laws, rather than curtailing the operation of the traded market.

Day Ahead Use It Or Lose It Mechanism

Our main concern here relates to operational risk. We agree that a failure to nominate should result in a zero value, but would like market participants to have the opportunity to place forward programs into the system to reduce operational risk.

We also consider that re-nomination restrictions should only apply at contractually congested points rather than all points.

Registration in the Market Area

We would prefer to have some clarity about the requirements for 24/7 functionality for balancing market participants, particularly on whether this will include the ability to use agents. It is important that operational requirements are not unnecessarily onerous or form barriers to entry.

Balancing and Clearing in the Market Area

We support the concept of daily balancing, and would prefer to see this applied to all customers.

For balancing group management we see two key issues, the first is that the draft seems to indicate that imbalance positions will be traded out on behalf of the user. We think that these trades should be **deemed** and that the balancing manager should only do physical trades for the net physical imbalances of the area rather than each user's gross position.

As drafted, it appears that the Market Area Manager and the Clearing and Settlement Agent calculate the net position, but with the process of balancing responsible parties then either acting within an hour or having actions taken for them. This would only resolve the 'net' imbalance if all parties were forced to take action which appears inefficient.

The second issue is whether under Para. 19.7 users will have to be a member of the exchange if gas is traded on its behalf?

Similarly, the requirement under Para 26.5 that imbalances are carried forward may be less necessary if trades are deemed at the prevailing market price rather than all having to be executed. The further complication with carrying forward the group imbalance is that it becomes less clear how market balancing parties should react during that day.

Merit Order List

Balancing mechanism – it is good to have a well structured mechanism to bid into, but we note that this is a bilateral rather than a multilateral approach. We would prefer to have a system where market participants are able to resolve imbalances between themselves leaving the market operator to manage just the residual amounts.

Even if at this early stage the Merit Order List is a pragmatic way forward, we would not want to limit future balancing market developments to this approach alone.

Collateral and Credit Checks

On credit and collateralization we consider that there should be some more detail either in the Ordinance of guidelines from e-Control on credit calculations and acceptable forms of collateral. We are concerned that leaving this completely at the discretion of the balancing managers may increase the risk of overly risk adverse and/or discriminatory treatment.

We hope that you find our comments useful and if you have any questions about this submission please feel free to contact either Adam Cooper (Adam.Cooper@shell.com , +44 (0)2075463060) or Elisabeth Santruschitz (e.santruschitz@shell.com, +43 664 612 66 01